

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

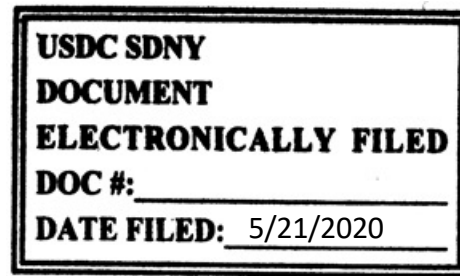
Quincy Magee,

Plaintiff,

-against-

The Walt Disney Company, et al.,

Defendants.



1:19-cv-10274 (AJN) (SDA)

ORDER

**STEWART D. AARON, United States Magistrate Judge:**

On May 12, 2020, Defendants filed a memorandum of law in support of their motion to stay discovery. (Defs.' Mem., ECF No. 28.) Although his response to Defendants' motion to stay was not due to be filed until June 11, 2020 (*see* 4/28/20 Order, ECF No. 20), Plaintiff filed his response to the motion to stay on May 14, 2020. (Pl.'s Response, ECF No. 31.) In order to expedite the disposition of Defendants' motion, the Court hereby accelerates the time for Defendants' time to reply. Amending its 4/28/20 Order, Defendants' reply, if any, with respect to their motion to stay, shall be filed no later than June 5, 2020.

Defendants state that their motion to stay is premised on their anticipated motion to dismiss. (*See* Defs.' Mem. at 2 (indicating that Defendants are seeking stay "pending the outcome of a motion to dismiss the complaint under Fed. R. Civ. P. 12(b)(6).")<sup>1</sup> Defendants argue that their "motion to dismiss has not yet been briefed and thus, any attempt to weigh the merits of the

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<sup>1</sup> Since Defendants already have filed an Answer to Plaintiff's Complaint, they actually will be filing a motion for judgment on the pleadings, pursuant to Fed. R. Civ. P. 12(c). In deciding a motion under Rule 12(c), a court employs the same standard applicable to motions under Rule 12(b)(6). *See L-7 Designs, Inc. v. Old Navy, LLC*, 647 F.3d 419, 429 (2d Cir. 2011)

motion would be premature.” (*Id.* at 4.) Yet, under applicable law, one of the factors the Court must consider in determining whether to grant a motion to stay discovery is “the strength of the pending motion forming the basis of the request for stay.” *Republic of Turkey v. Christie’s, Inc.*, 316 F. Supp. 3d 675, 677 (S.D.N.Y. 2018) (citation omitted). Thus, it is not “premature” to weigh the merits of Defendants’ anticipated motion, but it is essential to do so. Accordingly, Defendants shall file their motion for judgment on the pleadings no later than June 5, 2020.

By reason of the foregoing, it is hereby ORDERED, as follows:

1. No later than June 5, 2020, Defendants’ shall file their reply, if any, with respect to their pending motion to stay;
2. No later than June 5, 2020, Defendants shall file their motion for judgment on the pleadings, pursuant to Fed. R. Civ. P. 12(c).
3. No later than June 19, 2020, Plaintiff shall file his opposition to Defendants’ motion for judgment on the pleadings.
4. No later than June 26, 2020, Defendants shall file their reply, if any, with respect to their motion for judgment on the pleadings.

**SO ORDERED.**

DATED: New York, New York  
May 21, 2020



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STEWART D. AARON  
United States Magistrate Judge